

FIRST REGULAR SESSION
[CORRECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 251
97TH GENERAL ASSEMBLY

0105H.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 578.375, 578.377, 578.379, 578.381, 578.383, 578.389, and 578.390, RSMo, and to enact in lieu thereof nine new sections relating to public assistance fraud and abuse, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 578.375, 578.377, 578.379, 578.381, 578.383, 578.389, and
2 578.390, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as
3 sections 208.024, 578.375, 578.377, 578.379, 578.381, 578.383, 578.389, 578.390, and 578.392,
4 to read as follows:

208.024. 1. Eligible recipients of temporary assistance for needy families (TANF)
2 **benefits shall not use such funds in any electronic benefit transfer transaction in any liquor**
3 **store, casino, gambling casino, or gaming establishment, or any retail establishment which**
4 **provides adult-oriented entertainment in which performers disrobe or perform in an**
5 **unclothed state for entertainment. An eligible recipient of TANF assistance who makes a**
6 **purchase in violation of this section shall reimburse the department of social services for**
7 **such purchase.**

8 **2. An individual, store owner or proprietor of an establishment shall not accept**
9 **TANF cash assistance funds held on electronic benefit transfer cards for the purchase of**
10 **alcoholic beverages, lottery tickets, or tobacco products or for use in any electronic benefit**
11 **transfer transaction in any liquor store, casino, gambling casino, or gaming establishment,**
12 **or any retail establishment which provides adult-oriented entertainment in which**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 performers disrobe or perform in an unclothed state for entertainment. An individual,
14 store owner or proprietor of an establishment who knowingly accepts electronic benefit
15 transfer cards in violation of this section shall be punished by a fine of not more than five
16 hundred dollars for the first offense, a fine of not less than five hundred dollars nor more
17 than one thousand dollars for the second offense, and a fine of not less than one thousand
18 dollars for the third or subsequent offense. No store owner or proprietor of any liquor
19 store, casino, gambling casino, or gaming establishment, or any retail establishment which
20 provides adult-oriented entertainment in which performers disrobe or perform in an
21 unclothed state for entertainment shall adopt any policy, either explicitly or implicitly,
22 which encourages, permits, or acquiesces in its employees knowingly accepting electronic
23 benefit transfer cards in violation of this section.

24 **3. For purposes of this section:**

25 **(1) The following terms shall mean:**

26 **(a) "Electronic benefit transfer transaction", the use of a credit or debit card**
27 **service, automated teller machine, point of sale terminal, or access to an online system for**
28 **the withdrawal of funds or the processing of a payment for merchandise or a service; and**

29 **(b) "Liquor store", any retail establishment which sells exclusively or primarily**
30 **intoxicating liquor. Such term does not include a grocery store which sells both**
31 **intoxicating liquor and groceries including staple foods as outlined under the Food and**
32 **Nutrition Act of 2008;**

33 **(2) Casinos, gambling casinos, or gaming establishments shall not include:**

34 **(a) A grocery store which sells groceries including staple foods, and which also**
35 **offers, or is located within the same building or complex as a casino, gambling, or gaming**
36 **activities; or**

37 **(b) Any other establishment that offers casino, gambling, or gaming activities**
38 **incidental to the principal purpose of the business.**

578.375. As used in sections 578.375 to [578.389] **578.392**, the following terms mean:

2 **(1) ["Authorization to participate" or "ATP card", a document which is issued by a state**
3 **or federal agency to a certified household to show the food stamp allotment the household is**
4 **authorized to receive on presentation of the document;**

5 **(2)] "Department", the Missouri department of social services or any of its divisions;**

6 **(2) "Electronic Benefits Card" or "EBT card", a debit card used to access food**
7 **stamps or cash benefits issued by the department of social services;**

8 **(3) "Employment information", the following facts if reasonably available: complete**
9 **name, beginning and ending dates of employment during the most recent five years, amount of**

10 money earned in any month or months during the most recent five years, last known address, date
11 of birth, and Social Security account number;

12 (4) "Food [stamp coupons" or "food stamp", any coupon, stamp or other type of
13 document used or intended for use in the purchase of food pursuant to the Missouri food stamp
14 program] **stamps", the nutrition assistance program in Missouri that provides food and aid**
15 **to low-income individuals who are in need of benefits to purchase foods operated by the**
16 **United States Department of Agriculture (USDA) in conjunction with the department;**

17 (5) "Public assistance **benefits"**, anything of value, including money, food, [ATP] **EBT**
18 **cards, food [stamp coupons] stamps**, commodities, clothing, utilities, utilities payments, shelter,
19 drugs and medicine, materials, goods, and any service including institutional care, medical care,
20 dental care, child care, psychiatric and psychological service, rehabilitation instruction, training,
21 **transitional assistance**, or counseling, received by or paid on behalf of any person under
22 chapters 198, 205, 207, 208, 209, and 660, or benefits, programs, and services provided or
23 administered by the [Missouri] department [of social services] or any of its divisions.

578.377. 1. A person commits the crime of unlawfully receiving [food stamp coupons
2 or ATP] **public assistance benefits or EBT** cards if he **or she** knowingly receives or uses the
3 proceeds of [food stamp coupons or ATP] **public assistance benefits or EBT** cards to which
4 he **or she** is not lawfully entitled or for which he **or she** has not applied and been approved by
5 the department to receive.

6 2. Unlawfully receiving [food stamp coupons or ATP] **public assistance benefits or**
7 **EBT** cards is a class D felony unless the face value of the [food stamp coupon or ATP] **public**
8 **assistance benefits or EBT** cards is less than five hundred dollars, in which case unlawful
9 receiving of [food stamp coupons and ATP] **public assistance benefits or EBT** cards is a class
10 A misdemeanor. **A person who is found guilty of a second offense of unlawfully receiving**
11 **public assistance benefits or EBT cards in an amount less than five hundred dollars shall**
12 **be guilty of a class D felony. Any person who is found guilty of a second or subsequent**
13 **offense of felony unlawfully receiving public assistance benefits or EBT cards shall be**
14 **guilty of a class C felony. Any person who is found guilty of felony unlawfully receiving**
15 **of public assistance benefits or EBT cards shall serve not less than one hundred twenty**
16 **days in the department of corrections unless such person pays full restitution to the state**
17 **of Missouri within thirty days of the date of execution of sentence.**

18 3. **In addition to any criminal penalty, any person found guilty of unlawfully**
19 **receiving public assistance benefits or EBT cards shall pay full restitution to the state of**
20 **Missouri for the total amount of monies converted. No person placed on probation for the**
21 **offense shall be released from probation until full restitution has been paid.**

578.379. 1. A person commits the crime of conversion of [food stamp coupons or ATP] **public assistance benefits or EBT cards** if he or she knowingly engages in any transaction to convert [food stamp coupons or ATP] **public assistance benefits or EBT cards** to other property contrary to statutes, rules and regulations, either state or federal, governing the [food stamp program] **use of public assistance benefits**.

2. Unlawful conversion of [food stamp coupons or ATP] **public assistance benefits or EBT cards** is a class D felony unless the face value of said [food stamp coupons or ATP] **public assistance benefits or EBT cards** is less than five hundred dollars, in which case unlawful conversion of [food stamp coupons or ATP] **public assistance benefits or EBT cards** is a class A misdemeanor. **A person who is found guilty of a second offense of unlawful conversion of public assistance benefits or EBT cards in an amount less than five hundred dollars shall be guilty of a class D felony. Any person who is found guilty of a second or subsequent offense of felony unlawful conversion of public assistance benefits or EBT cards shall be guilty of a class C felony. Any person who is found guilty of felony unlawful conversion of public assistance benefits or EBT cards shall serve not less than one hundred twenty days in the department of corrections unless such person pays full restitution to the state of Missouri within thirty days of the date of execution of sentence.**

3. In addition to any criminal penalty, any person found guilty of unlawful conversion of public assistance benefits or EBT cards shall pay full restitution to the state of Missouri for the total amount of moneys converted. No person placed on probation for the offense shall be released from probation until full restitution has been paid.

578.381. 1. A person commits the crime of unlawful transfer of [food stamp coupons or ATP] **public assistance benefits or EBT cards** if he or she knowingly transfers [food stamp coupons or ATP] **public assistance benefits or EBT cards** to another not lawfully entitled or approved by the department to receive the [food stamp coupons or ATP] **public assistance benefits or EBT cards**.

2. Unlawful transfer of [food stamp coupons] **public assistance benefits** or [ATP] **EBT cards** is a class D felony unless the face value of said [food stamp coupons] **public assistance benefits** or [ATP] **EBT cards** is less than five hundred dollars, in which case unlawful transfer of [food stamp coupons] **public assistance benefits** or [ATP] **EBT cards** is a class A misdemeanor. **A person who is found guilty of a second offense of unlawful transfer of public assistance benefits or EBT cards in an amount less than five hundred dollars shall be guilty of a class D felony. Any person who is found guilty of a second or subsequent offense of felony unlawful transfer of public assistance benefits shall be guilty of a class C felony. Any person who is found guilty of felony unlawful transfer of public assistance benefits or EBT cards shall serve not less than one hundred twenty days in the department**

16 **of corrections unless such person pays full restitution to the state of Missouri within thirty**
17 **days of the date of execution of sentence.**

18 **3. In addition to any criminal penalty, any person found guilty of unlawful transfer**
19 **of public assistance benefits or EBT cards shall pay full restitution to the state of Missouri**
20 **for the total amount of moneys converted. No person placed on probation for the offense**
21 **shall be released from probation until full restitution has been paid.**

578.383. The face value of [all food stamp coupons or ATP] **public assistance benefits**
2 **or EBT** cards stolen, possessed, transferred or converted from one scheme or course of conduct,
3 whether from one or several rightful possessors, or at the same or different times shall constitute
4 a single criminal episode and their face values may be aggregated in determining the grade of
5 offense.

578.389. 1. Every person who has been previously convicted of two violations in
2 [section 578.377, 578.379, 578.381, 578.383,] **section 578.385[,] or 578.387, [or 578.389]** or
3 any two of them shall, upon a subsequent conviction of any of these offenses, be guilty of a class
4 C felony and shall be punished accordingly.

5 2. Evidence of prior convictions shall be heard by the court, out of the hearing of the
6 jury, prior to the submission of the case to the jury, and the court shall determine the existence
7 of the prior convictions.

578.390. The [office of the attorney general] **department** shall establish and maintain
2 a statewide toll-free telephone service which shall be operated [on a sixteen-hour schedule] **eight**
3 **hours per day** during the work week [and an eight-hour schedule on weekends and holidays]
4 to receive complaints of a suspected [welfare] **public assistance** fraud. This service shall receive
5 reports over a single statewide toll-free number.

578.392. The department shall study analytical modeling-based methods of
2 **detecting fraud and issue a report to the general assembly and governor by December 1,**
3 **2013, relating to the benefits and limitations of such a model, experiences in other states**
4 **using such a model, and estimated costs for implementation.**

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